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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,071	06/14/2006	Daniel N. Bauer	CH920030035US1	5849
54856	7590	05/30/2008	EXAMINER	
LOUIS PAUL HERZBERG 3 CLOVERDALE LANE MONSEY, NY 10952			BENOIT, ESTHER	
			ART UNIT	PAPER NUMBER
			2142	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,071	Applicant(s) BAUER ET AL.	
	Examiner ESTHER BENOIT	Art Unit 2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/21/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-27 are pending in this application. A Preliminary Amendment filed on 12/29/2005 amended claims 1-27 and added claims 29-30. Claims 1-30 are presented for examination.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See

MPEP § 2172.01. The omitted structural cooperative relationships are: Claim 29 is addressed to an apparatus; however, no structure is presented in the claim.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 29-30 are rejected under 35 U.S.C. 101 because claim 30 is directed to computer software. Claim 29 is also rejected because claim 30 is further limiting claim 29 that is directed to an apparatus with no structure.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-8, 14-16, and 18-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Meyerzon et al. (US 6,638,314 B1).

With respect to claim 1, Meyerzon discloses a method for retrieving a replica of an electronic document in a computer network, comprising selecting at least one replica number, (Col. 2, lines 30-34) by applying a given function, requiring the replica number and a document identifier as input: (Col. 3, lines 3-5) determining at least one entity identifier, each entity identifier representing an entity in the network that might provide the replica, (Col. 3, lines 6-8) addressing a document related request to at least one of the identified entities (Col. 2, lines 48-51)

With respect to claim 2, Meyerzon discloses selecting $k = N$ replica numbers, wherein N is a maximum number for replicas, (Col. 2, lines 30-34) by applying the given function k times: determining k entity identifiers (Col. 3, lines 3-5)

With respect to claim 3, Meyerzon discloses selecting k replica numbers from a maximum number of N replicas with $k < N$, (Col. 2, lines 30-42) by applying the given function k times, and determining k entity identifiers (Col. 3, lines 3-5)

With respect to claim 4, Meyerzon discloses wherein $k \leq 5$ (Col. 2, lines 30-42)

With respect to claim 5, Meyerzon discloses wherein $k = 1$ (Col. 2, lines 30-42)

With respect to claim 6, Meyerzon discloses addressing the document related request to all identified entities (Col. 2, lines 48-51)

With respect to claim 7, Meyerzon discloses addressing the document related request to only selected ones of the identified entities (Col. 2, lines 48-51)

With respect to claim 8, Meyerzon discloses addressing the document related request only to one entity selected from the identified entities (Col. 2, lines 48-51)

With respect to claim 14, Meyerzon discloses wherein upon receiving a "replica not available" response from each of the addressed entities, another entity is selected from the identified entities for addressing the document related request to (Col. 14, lines 9-16)

With respect to claim 15, Meyerzon discloses wherein the other entity is selected from the identified entities by choosing an entity with an associated replica number that is lower than the replica number associated to the entity/entities the previous request was addressed to (Col. 14, lines 34-38)

With respect to claim 16, Meyerzon discloses Method according to any one of the preceding claims, wherein upon any indication from the addressed entity/entities that neither the replica is not available nor the replica is available there, another entity is

Art Unit: 2142

selected from the identified entities for addressing the document related request to (Col. 14, lines 9-16)

With respect to claim 18, Meyerzon discloses selecting from the identified entities at least one most preferred entity, and addressing the document related request to each most preferred entity (Col. 2, lines 48-51)

With respect to claim 19, Meyerzon discloses wherein each most preferred entity is selected according to said each most preferred entity's distance from the retrieving entity (Col. 2, lines 48-51)

With respect to claim 20, Meyerzon discloses wherein the distance of an entity is derived from the associated entity identifier (Col. 2, lines 48-51)

With respect to claim 21, Meyerzon discloses wherein upon receiving a "replica not available" message from the addressed entity, at least one other entity is selected from a set of identified entities as a second best preferred entity for addressing the document related request to, (Col. 14, lines 9-16) this set of identified entities being limited to entities with corresponding replica numbers lower than the replica number that is associated to the most preferred entity identifier (Col. 14, lines 34-38)

With respect to claim 22, Meyerzon discloses wherein the second preferred entity is selected from the set of identified entities according to its distance from the retrieving entity, wherein the closest distance is derived from the associated entity identifier (Col. 2, lines 48-51)

With respect to claim 23, Meyerzon discloses a computer program element comprising computer program code means which, when loaded in a processor unit of a computing entity, configures the processor unit to perform a method as claimed in any one of the preceding claims (Col. 6, lines 3-10)

With respect to claim 24, Meyerzon discloses a computing entity for retrieving a replica of an electronic document in a computer network, comprising a control unit designed to perform a method (Col. 6, lines 3-10)

With respect to claim 25, Meyerzon discloses a method for depositing a replica of an electronic document in a computer network, selecting a replica number, (Col. 2, lines 30-34) by applying a given function, requiring the replica number and a document identifier as input: (Col. 3, lines 3-5) determining an entity identifier, the entity identifier representing an entity in the network, (Col. 3, lines 6-8) addressing the identified entity for replica depositing purposes (Col. 2, lines 48-51)

With respect to claim 26, Meyerzon discloses a computer program element comprising computer program code means which, when loaded in a processor unit of a computing entity, configures the processor unit to perform a method (Col. 6, lines 3-10)

With respect to claim 27, Meyerzon discloses a computing entity for depositing a replica of an electronic document in a computer network, comprising a control unit designed to perform a method (Col. 6, lines 3-10)

With respect to claim 28, Meyerzon discloses an article of manufacture comprising a computer usable medium having computer readable program code means embodied therein for causing retrieval of a replica of an electronic document in a computer network, the computer readable program code means in said article of manufacture comprising computer readable program code means for causing a computer to effect the steps (Col. 6, lines 3-10)

With respect to claim 29, Meyerzon discloses an apparatus to retrieve a replica of an electronic document in a computer network, comprising selecting at least one replica number, (Col. 2, lines 30-34) by applying a given function employing the replica number and a document identifier as input, (Col. 3, lines 3-5) determining at least one entity identifier, each entity identifier representing an entity in the network that might provide the replica, (Col. 3, lines 6-8) addressing a document related request to at least one of the identified entities (Col. 2, lines 48-51)

With respect to claim 30, Meyerzon discloses a computer program product comprising a computer usable medium having computer readable program code means embodied therein for causing retrieval of a replica of an electronic document in a computer network, the computer readable program code means in said computer program product comprising computer readable program code means for causing a computer to effect the functions of claim 29 (Col. 6, lines 3-10)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9-13, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyerzon et al. (US 6,638,314 B1), in view of Imaichi et al. (US 7,277,881 B2)

With respect to claim 9, Meyerzon does not disclose calculating a cost function for each of the k entities, the cost function providing a cost value as result which indicates a cost to address the relevant entity. However, Imaichi discloses calculating a cost function for each of the k entities, the cost function providing a cost value as result which indicates a cost to address the relevant entity (Col. 2, lines 53-59)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Meyerzon with the teachings of Imaichi to calculate a cost function relevant to the entities, in order to associate a fee with a given retrieved entity.

With respect to claim 10, Meyerzon does not disclose further comprising calculating a cost function for each of the k entities, the cost function providing a cost value as result which indicates a cost to address the relevant entity, wherein each entity to be addressed is selected from the identified entities due to an associated cost value. However, Imaichi discloses calculating a cost function for each of the k entities, the cost function providing a cost value as result which indicates a cost to address the relevant entity, wherein each entity to be addressed is selected from the identified entities due to an associated cost value (Col. 2, lines 53-59)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Meyerzon with the teachings of Imaichi to select a cost value relevant to the entities, in order to associate a fee with a given retrieved entity.

With respect to claim 11, Meyerzon does not disclose wherein addressed consist of at least one entity showing a lowest cost value/s. However, Imaichi discloses wherein

Art Unit: 2142

addressed consist of at least one entity showing a lowest cost value/s (Col. 2, lines 53-59)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Meyerzon with the teachings of Imaichi to select a cost value relevant to the entities, in order to associate a fee with a given retrieved entity.

With respect to claim 12, Meyerzon does not disclose wherein cost values for the addressed entities are derived from communication with these entities. However, Imaichi discloses cost values for the addressed entities are derived from communication with these entities (Col. 2, lines 53-59)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Meyerzon with the teachings of Imaichi to select a cost value relevant to the entities, in order to associate a fee with a given retrieved entity.

With respect to claim 13, Meyerzon does not disclose wherein cost values for the addressed entities are derived from a cost database. However, Imaichi discloses cost values for the addressed entities are derived from a cost database (Col. 2, lines 53-59)

Art Unit: 2142

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Meyerzon with the teachings of Imaichi to select a cost value relevant to the entities, in order to associate a fee with a given retrieved entity.

With respect to claim 17, Meyerzon does not disclose wherein the other entity is selected due to an associated cost value. However, Imaichi discloses wherein the other entity is selected due to an associated cost value (Col. 2, lines 53-59)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Meyerzon with the teachings of Imaichi to select a cost value relevant to the entities, in order to associate a fee with a given retrieved entity.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther Benoit whose telephone number is 571-270-3807. The examiner can normally be reached on Monday through Friday between 7:30 a.m and 5 p.m.

Art Unit: 2142

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on 571-272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

E.B.
May 20, 2008

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2142